REMARKS

In the Advisory Action mailed January 8, 2004, the Examiner indicated that the amendments submitted pursuant to 37 C.F.R. §.1.116 would not be entered because they allegedly raised new issues that would require further consideration and/or search and allegedly raised the issue of new matter.

Specifically, the Examiner stated in the Advisory Action that the amendments submitted previously under 37 C.F. R. § 1.116 raise new issues that would require further consideration under 35 U.S.C. § 112, first paragraph, and/or 35 U.S.C. § 102. The Request for Continued Examination submitted herewith should reopen prosecution with respect to any further consideration or search.

As further described in Note 2 of the Advisory Action, the Examiner's position is that the amendments submitted previously under 37 C.F.R. § 1.116 raise the issue of new matter with respect to amendment of the claims to recite "a protein comprising amino acids 96-118 of SEQ ID NO:8, allowing for up to four mismatches" and amendment of claim 17 to recite in relevant part "salt, nutrient deprivation, drought or chilling."

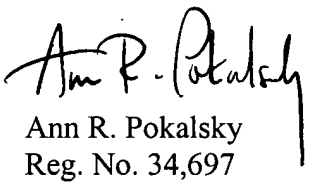
Applicants respectfully submit that amendment of claim 1 (and claims dependent thereon) to recite "a protein comprising amino acids 96-118 of SEQ ID NO:8, allowing for up to four mismatches" does not constitute the addition of new matter to the application as filed since this information was present or could be fairly deduced from the specification as filed. For example, page 72 of the specification discloses that HAL3 is a halotolerant gene isolated in *Saccharomyces cerevisiae* and specifically cites Ferrando et al. (1995) *Molecular and Cellular Biology, 15*:5470-5481. The amino acid sequence for *S. cerevisiae* HAL 3 is set forth in Figure 1B of Ferrando et al. A copy of this publication is submitted herewith as

Exhibit A. As described on page 72 of the specification, Applicants' Vb89 cDNA clone was used to screen the publicly available databases. This same page of the specification also discloses that a BLAST data search revealed that the Vb89 clone encodes the *Arabidopsis thaliana* HAL3 homologue. The amino acid sequence for Applicants' Vb89 clone is disclosed in the present application as SEQ ID NO:8. One skilled in the art, comparing the highly significant homology of Vb89 to the publicly available HAL3 amino acid sequence from *S. cerevisiae* referenced in the present application, could fairly deduce the strong homology between the region of amino acids 96-118 of SEQ ID NO:8 and the corresponding region of *S. cerevisiae* HAL3. One skilled in the art could also fairly deduce that in this overall highly conserved region, there are five substitutions in the HAL3 clone compared to Applicants' Vb89. A copy of an amino acid alignment between Applicants' VB89 and *Saccharomyces cerevisiae* HAL3, as one skilled in the art would have been aware of, having in hand the present application as of its filing date, is provided herewith as Exhibit B. It is respectfully submitted therefore, that the claim language "a protein comprising amino acids 96-118 of SEQ ID NO:8, allowing for up to four mismatches" does not constitute the addition of new matter to the application as filed.

With respect to the language "salt, nutrient deprivation, drought or chilling" as recited in claim 18 submitted in the amendment under 37 C.F.R. §1.116, Applicants respectfully direct the Examiner to page 34 of the application. Lines 5-8 of page 34 disclose: "[f]urthermore, overproduction of the cell cycle interacting protein of the invention enhances growth and results in cell division to be less sensitive to an arrest caused by environmental stress such as salt, nutrient deprivation, drought, chilling, and the like." The amendments to claim 18 therefore do not amount to addition of new matter to the application as filed.

Applicants respectfully request that the Examiner consider the remarks presented hereinabove, prior to issuing the next office action.

Respectfully submitted,



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